

1 Timothy T. Scott (SBN 126971)
 tscott@sidley.com
 2 Geoffrey M. Ezgar (SBN 184243)
 gezgar@sidley.com
 3 Paul L. Yanosy (SBN 233014)
 pyanosy@sidley.com
 4 SIDLEY AUSTIN LLP
 555 California Street
 5 San Francisco, California 94104
 Telephone: (415) 772-1200
 6 Facsimile: (415) 772-7400

7 Paul E. Kalb, M.D.
 SIDLEY AUSTIN LLP
 8 1501 K Street, N.W.
 Washington, D.C. 20005
 9 Telephone: (202) 736-8000
 Facsimile: (202) 736-8711

10 Nina M. Gussack
 11 Andrew R. Rogoff
 PEPPER HAMILTON LLP
 12 3000 Two Logan Square
 Eighteenth and Arch Streets
 13 Philadelphia, PA 19103-2799
 Telephone: (215) 981-4000
 14 Facsimile: (215) 981-4750

15 Attorneys For Defendant
 ELI LILLY AND COMPANY

16 UNITED STATES DISTRICT COURT
 17
 18 NORTHERN DISTRICT OF CALIFORNIA
 19
 20 SAN FRANCISCO DIVISION

20	STATE OF CALIFORNIA <i>ex rel.</i> JAYDEEN)	Case No. 07-cv-04911-CRB
	VICENTE and JAYDEEN VICENTE)	Assigned to: Hon. Charles R. Breyer
21	Individually,)	
)	DEFENDANT'S OPPOSITION TO
22	Relators,)	RELATOR'S EX PARTE MOTION TO
)	EXCEED THE 15-PAGE LIMITATION ON
23)	OPPOSITION BRIEFS
)	
24)	
)	
25	ELI LILLY AND COMPANY,)	
)	
26	Defendant.)	
)	
27)	
)	
28)	

1 1. The hearing dates for three pending motions in this case—Defendant Eli Lilly and
2 Company’s (“Lilly”) Motion to Dismiss, Lilly’s Motion to Stay and Relator’s Motion to Remand—
3 are set for December 7, 2007. Because the Thanksgiving holiday falls within the midst of the
4 briefing schedule on these motions, both parties will have only three business days to prepare replies
5 (with Lilly having to file two separate replies), which are due on November 21, 2007.

6 2. If the November 21, 2007 deadline stands, counsel for Lilly will have an extremely
7 limited time period to discuss Lilly’s replies with Lilly’s Indiana-based in-house counsel. Moreover,
8 at least two of the attorneys on this matter for Lilly have had to, or will have to, cancel or modify
9 their Thanksgiving air travel in order to accommodate this schedule.

10 3. On November 14, 2007, Lilly’s counsel contacted Relator’s counsel and suggested,
11 in light of the tight schedule imposed by the Thanksgiving holiday, that the parties stipulate to
12 additional time for the filing of reply briefs and a re-setting of the hearing date for a week or two
13 after December 7th. Relator rejected this suggestion.

14 4. Late in the afternoon of November 15, 2007, Relator’s counsel contacted Lilly’s
15 counsel asking whether Lilly would object to Relator filing a 25-page response brief. Notably,
16 Relator received Lilly’s Motion to Dismiss on September 28, 2007, but waited over six weeks to
17 make this request. Lilly offered to stipulate to the page extension if Relator agreed to Lilly’s earlier
18 request to move the hearing date to enlarge the time available to respond and avoid the
19 complications created by the Thanksgiving holiday. Relator not only refused but, in her current *ex*
20 *parte* motion, failed to inform the Court of the offer made by Lilly and instead characterized Lilly’s
21 offer as a “refusal” to stipulate. Relator has now filed an *ex parte* request seeking leave to file a
22 brief in excess of this Court’s fifteen page deadline.

23 5. Granting Relator’s request will require Lilly to respond to two briefs, one of them 25
24 pages in length, in less than three business days. While Lilly is prepared to file a reply in response to
25 a brief adhering to this Court’s page limit, it would impose an unnecessary hardship on Lilly and its
26 counsel to respond to a 25 page brief in such a short time period.

27 6. Lilly therefore respectfully requests that Relator’s motion be denied. Alternatively,
28 should this Court grant Relator’s motion, Lilly requests that both Lilly and Relator be given until

1 December 7, 2007 to file their replies and that the hearing date on these motions be re-set for
2 December 21, 2007. This additional time would be warranted both by the length of Relator's
3 Motion to Dismiss response and the difficulty of filing two replies in the shortened period imposed
4 by the Thanksgiving holiday.

5 WHEREFORE, Lilly respectfully requests that this Court deny Relator's *ex parte*
6 motion to exceed the 15-Page Limitation on Opposition Briefs.

7
8
9 Dated: November 16, 2007

SIDLEY AUSTIN LLP

10
11 By: s/ Timothy T. Scott

12 Attorneys For Defendant
13 ELI LILLY AND COMPANY
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28